

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE**

JAMES W. COLLETTE, SR.,
Plaintiff,

v.

MICHAEL J. ASTRUE,
COMMISSIONER OF SOCIAL SECURITY,
Defendant.

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**No. 3:08-CV-87
(Phillips/Shirley)**

MEMORANDUM OPINION

This Social Security appeal is before the court on the report and recommendation filed by United States Magistrate Judge C. Clifford Shirley [Doc. 16]. There have been no timely objections to the report and recommendation, and enough time has passed since the filing of the report and recommendation to treat any objections as having been waived. See 28 U.S.C. § 636(b)(1); Fed.R.Civ.P. 72(b).

After a careful review of this matter, the court is in complete agreement with the magistrate judge's conclusion that plaintiff's motion for summary judgment be denied and the Commissioner's motion for summary judgment be granted. Accordingly, the court **ACCEPTS IN WHOLE** the report and recommendation under 28 U.S.C. § 636(b)(1) and Fed.R.Civ.P. 72(b). It is **ORDERED**, for the reasons stated in the report and recommendation, which the court adopts and incorporates into its ruling, that the plaintiff's

motion for summary judgment [Doc. 11] is **DENIED**; the defendant Commissioner's motion for summary judgment [Doc. 13] is **GRANTED**, and this action is **DISMISSED**.

ENTER:

s/ Thomas W. Phillips
United States District Judge